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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,759	06/25/2003	Michael Rosenbauer	2000P13035WOUS	2143
46726	7590	05/18/2005	EXAMINER	
JOHN T. WINBURN 100 BOSCH BOULEVARD NEW BERN, NC 28562			TRAN, HANH VAN	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/603,759

Applicant(s)

ROSENBAUER ET AL.

Examiner

Hanh V. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/30/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the First Office Action on the Merits from the examiner in charge of this application.

Priority

2. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on 12/29/2000. It is noted, however, that applicant has not filed a certified copy of the German application as required by 35 U.S.C. 119(b). *Drawings*

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitation in (1) claim 16 of the “peripherally closed rectangle cover part is formed from two substantially L-shaped side parts”, (2) claim 17 of the upstanding side part including “additional retention functional elements, including at least one receptacle retention element”, and (3) claim 19 of “a heat exchanger integrated” within at least one of the side parts must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the

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renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

4. Claims 11-19 are objected to because of the following informalities: line 2 of each claim, "including said" should be "said". Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 10-15, 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Europe 556,787 to Premoli et al.

Premoli et al discloses a washing container for a dishwashing machine comprising all the elements recited in the above listed claims including, such as shown in Figs 7-9, a container body having a plurality of assembled parts, a base frame 1', at least one cover part 22' attached to the base frame part 1', said cover part including a plurality of side parts 23', 44, said side parts connected to one another at an angle to form a substantially U-shaped cover part 22' having an open end, the base frame part having an upstanding side part 28, said upstanding side part located in said U-shaped cover part open end completing said cover part, said base frame part 1'

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and said upstanding side part 28 formed as a unitary assembly, said base frame part and said upstanding side part unitary assembly formed from a molded plastic material and said cover part formed from a corrosion-resistant material, said base frame part including a filter floor part 4(col. 3, lines 53-58).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Premoli et al.

Premoli et al discloses all the elements as discussed above except for (1) claim 16, the “peripherally closed rectangle cover part is formed from two substantially L-shaped side parts”, (2) claim 17, the upstanding side part including “additional retention functional elements, including at least one receptacle retention element.

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In regard to the limitation in claim 16, Premoli et al discloses the claimed invention except for the cover part being formed from two substantially L-shaped side parts, instead of one U-shaped side part. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the cover part being formed from two substantially L-shaped side parts, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

In regard to the limitation in claim 17, although Premoli et al does not clearly teach the limitation recited therein of the upstanding side part 28 having at least one receptacle retention element, it would have been obvious and well known in the art to provide the upstanding side part 28 of Premoli et al with at least one receptacle retention element for holding cleaning agent.

10. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Premoli et al in view of USP 3,658,075 to Jacobs.

Premoli et al discloses all the elements as discussed above except for at least one of said side parts having a heat exchanger integrated therein.

Jacobs teaches the idea of providing a heat exchanger 60 integrated within a dishwashing machine container for the purpose of improving condensation means. Therefore, it would have been obvious to modify the structure of Premoli et al by providing at least one of said side parts with a heat exchanger integrated therein for the purpose of improving condensation means, as taught by Jacobs, since both teach alternate conventional dishwasher structure, used for the same intended purpose, thereby providing structure as claimed.

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Conclusion

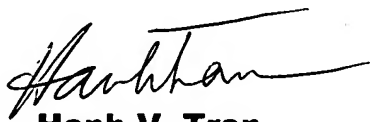
11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Durazzani, Jung, Kelsey, Becker, Davies, Jr., Archer et al, Durazzani '061, Wrangberth, Hastings, and Fukuchi et al all show structures similar to various elements of applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HVT
May 15, 2005


Hanh V. Tran
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